

The Examiner objects to the drawings because Figure 2 should be bracketed as per Rule 1.84 (h)(1).

The Examiner has required Corrected drawing sheets in compliance with 37 CFR 1.121(d) to avoid abandonment of the application. The Examiner further requires that the replacement drawing sheet should include all of the figures appearing on the immediate prior version of the (drawing) sheet, even if only one figure is being amended.

The figure or figure number of the amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet and, if necessary, the remaining figures renumbered and appropriate changes made to the brief description of the several views of the drawings. Additional replacement sheets may be necessary to shoe the renumbering of the remaining figures.

The replacement sheet should be labeled "Replacement Sheet" in the page header as per 37 CFR 1.84(c) so as not to obstruct any portion of the drawing figures.

C. In the Specification

1. **Abstract-** The Examiner has objected to the use of the clause "invention" in the abstract, as it is not allowed in the abstract.
2. **Alterations-** The application has been objected to because of alterations which have not been initialed and/or dated as required by 37 CFR 1.52(c).
3. **Oath/Declaration-** A properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by application number and filing date is required.
4. **Informalities-**
  - a. Page 4- The reference to the patent to Welzen must include the patent number.
  - b. Page 9, line 11-"0.032" requires a unit of measure.

D. Claim rejections under 35 USC §112, Second Paragraph

The Examiner states that claims 1-17 are rejected for failing to define the invention in the manner required by 35 USC 112, second paragraph.

The Examiner says that the claims are narrative in form and replete with indefinite and functional or operational language. The Examiner requires that the structure that makes up the device must be clearly and positively specified. Also, the claims must be in one sentence form only.

The Examiner further states that these claims are mixing a method of using (the device) with the device's structure, which is not permitted by the Office.

The Examiner comments that the claims are confusing since it is not clear if the tree is part of the claimed combination or not. The Examiner says that the preamble recites a subcombination of a stand for use with a tree, but in line 3, the combination of a stand with a tree is claimed. The Examiner opines that for this Office Action, the claims would be considered as subcombination claims, i.e. the tree is not considered to be part of the combination.

Further, regarding Claim 1, the word "means" is preceded by the word(s) "...of retaining..." in an attempt to use a "means" clause to recite a claim element for performing a specified function. However, the Examiner declares, since no function is specified by the word(s) preceding "means", it is impossible to determine the equivalents of the element as required by 35 USC 112, sixth paragraph.

E. Claim Rejections under 35 USC § 103 (a)

The Examiner has rejected Claims 1-17 under 35 USC 103(a) as being unpatentable over Welzen (Patent Number 6,010,108) in view of St. George Syms (Patent Number 4,261,138). The Examiner claims that the patent to Welzen discloses all of the elements of the current device except for the cover. The patent to St. George Syms shows another tree holder with a cover (20) to provide protection to an element of the invention.

F. Examiner's Conclusions

The Examiner concludes that the Applicant must review the whole specification, drawings and